



General Assembly

January Session, 2013

***Raised Bill No. 984***

LCO No. 3654



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

***AN ACT CONCERNING PROBATE COURT OPERATIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-78 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) The Probate Court Administrator shall, from time to time,  
4 recommend to the judges of the Supreme Court, for adoption and  
5 promulgation pursuant to the provisions of section 51-14, uniform  
6 rules [for practice and] of procedure in the [courts of probate] Probate  
7 Courts. Any rules [for practice and] of procedure so adopted and  
8 promulgated shall be mandatory upon all [courts of probate] Probate  
9 Courts. To assist [him] the Probate Court Administrator in formulating  
10 such recommendations, the Probate Court Administrator shall meet  
11 with the Probate Assembly at least annually, and may meet with  
12 members of the bar of this state and with the general public.

13 (b) The Probate Court Administrator shall, from time to time,  
14 [compile into a probate practice book all rules regarding practice and]  
15 publish the rules of procedure [in the courts of probate] for the Probate

16 Courts. [and all forms prescribed for use in probate courts.] The  
17 Probate Court Administrator [shall cause the probate practice book to  
18 be published, shall pay for the probate practice book] may pay the  
19 expenses of publication from the fund established under section 45a-82  
20 and shall sell the [probate practice] book of Probate Court rules and  
21 procedure, at a price determined by the Probate Court Administrator.  
22 The proceeds from the sales shall be added to and shall become a part  
23 of said fund.

24       Sec. 2. Section 45a-176 of the general statutes is repealed and the  
25 following is substituted in lieu thereof (*Effective October 1, 2013*):

26       [Except when any beneficiary is a trustee of a testamentary or inter  
27 vivos trust, if any fiduciary of a decedent's estate is one of the  
28 beneficiaries of the residue of the estate, and if all dispositions, if any,  
29 to other beneficiaries are bequests of specific personal property or of  
30 an amount certain or devises of specific real property, any fiduciary  
31 may, in lieu of any other accounting required under this chapter, file  
32 with the court of probate having jurisdiction of the estate a statement  
33 under the penalties of false statement that all debts, funeral expenses,  
34 taxes and expenses of administration have been paid, and all bequests  
35 and devises have been or will be distributed. The statement shall  
36 include the total of any amount reported on the return of claims filed  
37 under section 45a-397, an itemized list of all funeral expenses, taxes  
38 and expenses of administration, and a representation that all  
39 distributees have received a copy of the statement. Any distributee or  
40 other interested party not satisfied with the adequacy or content of the  
41 statement may request the filing of an account under section 45a-175 or  
42 object to the statement by petitioning the court for a hearing at any  
43 time prior to the court's approval of the statement. The court may, for  
44 cause shown, refuse to accept the statement and require an accounting  
45 from the fiduciary. The court of probate] If a fiduciary is permitted to  
46 submit a financial report in lieu of an account pursuant to rules of  
47 procedure adopted under section 45a-78, as amended by this act, and  
48 the Probate Court approves the financial report, the Probate Court may

49 enter a decree releasing [and discharging] the fiduciary and the  
50 sureties on [his] the fiduciary's bond, if any, from any further liability  
51 with respect to all items shown on the financial report.

52 Sec. 3. Section 17a-525 of the general statutes is repealed and the  
53 following is substituted in lieu thereof (*Effective October 1, 2013*):

54 Any person aggrieved by an order, denial or decree of [the Court of  
55 Probate] a Probate Court under sections 17a-75 to 17a-83, inclusive,  
56 17a-450 to 17a-484, inclusive, 17a-495 to 17a-528, inclusive, 17a-540 to  
57 17a-550, inclusive, 17a-560 to 17a-576, inclusive, and 17a-615 to 17a-  
58 618, inclusive, including any relative or friend, on behalf of any person  
59 found to have psychiatric disabilities, shall have the right of appeal [as  
60 in other cases] in accordance with sections 45a-186 to 45a-193,  
61 inclusive, as amended by this act. [The Court of Probate, on an appeal,  
62 shall make all necessary orders of notice to the parties to the  
63 proceedings and to such other persons as it deems advisable and may  
64 require the appellant to give bond, with sufficient surety, to the state to  
65 prosecute such appeal to effect and to pay all the legal costs and  
66 expenses thereof if unsuccessful, and may refuse to allow such appeal  
67 unless such bond is given or, at its discretion, allow such appeal  
68 without such bond.] On the trial of an appeal, the Superior Court may  
69 require the state's attorney or, in [his] the state's attorney's absence,  
70 some other practicing attorney of the court to be present for the  
71 protection of the interests of the state and of the public.

72 Sec. 4. Section 45a-186 of the general statutes is repealed and the  
73 following is substituted in lieu thereof (*Effective October 1, 2013*):

74 (a) Except as provided in sections 45a-187 and 45a-188, any person  
75 aggrieved by any order, denial or decree of a [court of probate] Probate  
76 Court in any matter, unless otherwise specially provided by law, may,  
77 not later than forty-five days after the mailing of an order, denial or  
78 decree for a matter heard under any provision of section 45a-593, 45a-  
79 594, 45a-595 or 45a-597, sections 45a-644 to 45a-677, inclusive, or

80 sections 45a-690 to 45a-705, inclusive, and not later than thirty days  
81 after mailing of an order, denial or decree for any other matter in a  
82 [court of probate] Probate Court, appeal therefrom to the Superior  
83 Court. Such an appeal shall be commenced by filing a complaint in the  
84 superior court in the judicial district in which such [court of probate]  
85 Probate Court is located, or, if the [court of probate] Probate Court is  
86 located in a probate district that is in more than one judicial district, by  
87 filing a complaint in a superior court that is located in a judicial district  
88 in which any portion of the probate district is located, except that (1)  
89 an appeal under subsection (b) of section 12-359, subsection (b) of  
90 section 12-367 or subsection (b) of section 12-395 shall be filed in the  
91 judicial district of Hartford, and (2) an appeal in a matter concerning  
92 removal of a parent as guardian, termination of parental rights or  
93 adoption shall be filed in any superior court for juvenile matters  
94 having jurisdiction over matters arising in any town within such  
95 probate district. The complaint shall state the reasons for the appeal. A  
96 copy of the order, denial or decree appealed from shall be attached to  
97 the complaint. Appeals from any decision rendered in any case after a  
98 recording is made of the proceedings under section 17a-498, 17a-543,  
99 17a-543a, 17a-685, [45a-650] 45a-644 to 45a-667v, inclusive, 51-72 or 51-  
100 73 shall be on the record and shall not be a trial de novo.

101 (b) Each person who files an appeal pursuant to this section shall  
102 [mail a copy of the complaint to the court of probate that rendered the  
103 order, denial or decree appealed from, and] serve a copy of the  
104 complaint on each interested party. The failure of any person to make  
105 such service shall not deprive the Superior Court of jurisdiction over  
106 the appeal. Notwithstanding the provisions of section 52-50, service of  
107 the copy of the complaint shall be by state marshal, constable or an  
108 indifferent person. Service shall be in hand or by leaving a copy at the  
109 place of residence of the interested party being served or at the address  
110 for the interested party on file with [said court of probate] the Probate  
111 Court, except that service on a respondent or conserved person in an  
112 appeal from an action under part IV of chapter 802h shall be in hand

113 by a state marshal, constable or an indifferent person.

114 (c) In addition to the notice given under subsection (b) of this  
115 section, each person who files an appeal pursuant to this section shall  
116 mail a copy of the complaint to the Probate Court that rendered the  
117 order, denial or decree appealed from. The Probate Court and the  
118 judge of probate that issued the order, denial or decree appealed from  
119 shall not be made parties to the appeal and shall not be named in the  
120 complaint as parties.

121 ~~[(c)]~~ (d) Not later than fifteen days after a person files an appeal  
122 under this section, the person who filed the appeal shall file or cause to  
123 be filed with the clerk of the Superior Court a document containing (1)  
124 the name, address and signature of the person making service, and (2)  
125 a statement of the date and manner in which a copy of the complaint  
126 was served on [the court of probate and] each interested party and  
127 mailed to the Probate Court that rendered the order, denial or decree  
128 appealed from.

129 ~~[(d)]~~ (e) If service has not been made on an interested party, the  
130 Superior Court, on motion, shall make such orders of notice of the  
131 appeal as are reasonably calculated to notify any necessary party not  
132 yet served.

133 ~~[(e)]~~ (f) A hearing in an appeal from probate proceedings under  
134 section 17a-77, 17a-80, 17a-498, 17a-510, 17a-511, 17a-543, 17a-543a,  
135 17a-685, 45a-650, as amended by this act, 45a-654, 45a-660, 45a-674,  
136 45a-676, 45a-681, 45a-682, 45a-699, 45a-703 or 45a-717 shall commence,  
137 unless a stay has been issued pursuant to subsection ~~[(f)]~~ (g) of this  
138 section, not later than ninety days after the appeal has been filed.

139 ~~[(f)]~~ (g) The filing of an appeal under this section shall not, of itself,  
140 stay enforcement of the order, denial or decree from which the appeal  
141 is taken. A motion for a stay may be made to the [Court of] Probate  
142 Court or the Superior Court. The filing of a motion with the [Court of]  
143 Probate Court shall not preclude action by the Superior Court.

144        [(g)] (h) Nothing in this section shall prevent any person aggrieved  
145        by any order, denial or decree of a [court of probate] Probate Court in  
146        any matter, unless otherwise specially provided by law, from filing a  
147        petition for a writ of habeas corpus, a petition for termination of  
148        involuntary representation or a petition for any other available  
149        remedy.

150        [(h)] (i) (1) Except for matters described in subdivision (3) of this  
151        subsection, in any appeal filed under this section, the appeal may be  
152        referred by the Superior Court to a special assignment probate judge  
153        appointed in accordance with section 45a-79b, who is assigned by the  
154        Probate Court Administrator for the purposes of such appeal, except  
155        that such appeal shall be heard by the Superior Court if any party files  
156        a demand for such hearing in writing with the Superior Court not later  
157        than twenty days after service of the appeal.

158        (2) An appeal referred to a special assignment probate judge  
159        pursuant to this subsection shall proceed in accordance with the rules  
160        for references set forth in the rules of the judges of the Superior Court.

161        (3) The following matters shall not be referred to a special  
162        assignment probate judge pursuant to this subsection: Appeals under  
163        sections 17a-75 to 17a-83, inclusive, section 17a-274, sections 17a-495 to  
164        17a-528, inclusive, sections 17a-543, 17a-543a, 17a-685 to 17a-688,  
165        inclusive, children's matters as defined in subsection (a) of section 45a-  
166        8a, sections 45a-644 to 45a-663, inclusive, 45a-668 to 45a-684, inclusive,  
167        and 45a-690 to 45a-700, inclusive, and any matter in a [court of  
168        probate] Probate Court heard on the record in accordance with  
169        sections 51-72 and 51-73.

170        Sec. 5. Section 45a-295 of the general statutes is repealed and the  
171        following is substituted in lieu thereof (*Effective October 1, 2013*):

172        (a) When it appears to any [court of probate] Probate Court,  
173        pending proceedings before it for the settlement of the estate of a  
174        deceased person as a testate estate, that the will under which such

175 proceedings were commenced and have been continued had been  
176 revoked in accordance with the provisions of subsection (b) of section  
177 45a-257 of the general statutes, revision of 1958, revised to January 1,  
178 1995, with respect to any will executed on or after October 1, 1967, and  
179 prior to January 1, 1997, or in accordance with the provisions of section  
180 45a-257 with respect to any will executed on or after January 1, 1997,  
181 the court shall have power to revoke, annul and set aside any order or  
182 decree proving or approving the will so revoked and any other order  
183 or decree made and passed by such court in the settlement of the estate  
184 under such will.

185 (b) The court may thereafter proceed with the settlement of the  
186 estate under a subsequent will if there is one or, if there is no  
187 subsequent will, may grant administration on the estate of such  
188 deceased person and proceed with the settlement of the estate as an  
189 intestate estate upon such notice to all parties in interest as the court  
190 orders.

191 Sec. 6. Section 45a-436 of the general statutes is repealed and the  
192 following is substituted in lieu thereof (*Effective October 1, 2013*):

193 (a) On the death of a spouse, the surviving spouse may elect, as  
194 provided in subsection (c) of this section, to take a statutory share of  
195 the real and personal property passing under the will of the deceased  
196 spouse. The "statutory share" means a life estate of one-third in value  
197 of all the property passing under the will, real and personal, legally or  
198 equitably owned by the deceased spouse at the time of his or her  
199 death, after the payment of all debts and charges against the estate.  
200 The right to such third shall not be defeated by any disposition of the  
201 property by will to other parties.

202 (b) If the deceased spouse has by will devised or bequeathed a  
203 portion of his or her property to his or her surviving spouse, such  
204 provision shall be taken to be in lieu of the statutory share unless the  
205 contrary is expressly stated in the will or clearly appears therein; but,

206 in any such case, the surviving spouse may elect to take the statutory  
207 share in lieu of the provision of the will.

208 (c) The surviving spouse, or the conservator or guardian of the  
209 estate of the surviving spouse, with the approval, after notice and  
210 hearing, of the [court of probate] Probate Court by which such  
211 conservator or guardian was appointed, shall, not later than one  
212 hundred fifty days [from the date of the appointment of the first  
213 fiduciary, as defined in section 45a-353] after the mailing of the decree  
214 admitting the will to probate, file a notice, in writing, of his or her  
215 intention to take the statutory share with the [court of probate] Probate  
216 Court before which the estate is in settlement, and if such notice is not  
217 so filed, the surviving spouse shall be barred of such statutory share.

218 (d) If the [court of probate] Probate Court has allowed a support  
219 allowance under section 45a-320 from the deceased spouse's estate for  
220 support of the surviving spouse and for the support of his or her  
221 family, the surviving spouse shall not take his or her statutory share  
222 until the expiration of the time for which the support allowance is  
223 made.

224 (e) The statutory share shall be set out by the fiduciary charged with  
225 the administration of the estate or, in the discretion of the [probate  
226 court] Probate Court on its own motion or on application by any  
227 interested person, by distributors appointed by the [court of probate]  
228 Probate Court. The statutory share may consist of personal property or  
229 real property, or both, according to the judgment of the fiduciary or  
230 distributors.

231 (f) The provisions of this section with regard to the statutory share  
232 of the surviving spouse in the property of the deceased spouse shall  
233 not apply to any case in which, by written contract made before or  
234 after marriage, either party has received from the other what was  
235 intended as a provision in lieu of the statutory share.

236 (g) A surviving [husband or wife] spouse shall not be entitled to a



237 statutory share, as provided in subsection (a) of this section, or an  
238 intestate share, as provided in section 45a-437, in the property of the  
239 other if such surviving spouse, without sufficient cause, abandoned  
240 the other and continued such abandonment to the time of the other's  
241 death.

242 (h) The provisions of this section shall apply to estates of all persons  
243 dying on or after July 1, 1985.

244 Sec. 7. Section 45a-484 of the general statutes is repealed and the  
245 following is substituted in lieu thereof (*Effective October 1, 2013*):

246 (a) Except as otherwise provided by the trust or section 45a-520 with  
247 respect to charitable trusts, a [probate court] Probate Court having  
248 jurisdiction under this section may terminate a trust, in whole or in  
249 part, on application therefor by the trustee, by any beneficiary entitled  
250 to income from the trust, or by such beneficiary's legal representative,  
251 after reasonable notice to all beneficiaries who are known and in being  
252 and who have vested or contingent interests in the trust, and after  
253 holding a hearing, if the court determines that all of the following  
254 apply: (1) The continuation of the trust is (A) uneconomic when the  
255 costs of operating the trust, probable income and other relevant factors  
256 are considered, or (B) not in the best interest of the beneficiaries; (2) the  
257 termination of the trust is equitable and practical; and (3) the current  
258 market value of the trust does not exceed the sum of one hundred fifty  
259 thousand dollars.

260 (b) If the [probate court] Probate Court orders termination of the  
261 trust, in whole or in part, it shall direct that the principal and  
262 undistributed income be distributed to the beneficiaries in such  
263 manner as the [probate court] Probate Court determines is equitable.  
264 The [probate court] Probate Court may also make such other order as  
265 it deems necessary or appropriate to protect the interests of the  
266 beneficiaries.

267 (c) No trust may be terminated over the objection of its settlor or

268 where the interest of the beneficiaries cannot be ascertained. The  
269 provisions of this section shall not apply to spendthrift trusts.

270 (d) A [probate court] Probate Court may terminate a testamentary  
271 trust pursuant to this section if the [probate court] Probate Court has  
272 jurisdiction over the accounts of the testamentary trustee. A [probate  
273 court] Probate Court may terminate an inter vivos trust pursuant to  
274 this section if the trustee or settlor has his or its principal place of  
275 business in, or resides in, that probate district.

276 Sec. 8. Section 45a-648 of the general statutes is repealed and the  
277 following is substituted in lieu thereof (*Effective October 1, 2013*):

278 (a) An application for involuntary representation may be filed by  
279 any person alleging that a respondent is incapable of managing his or  
280 her affairs or incapable of caring for himself or herself and stating the  
281 reasons for the alleged incapability. The application shall be filed in the  
282 [court of probate] Probate Court in the district in which the respondent  
283 resides, is domiciled or is located at the time of the filing of the  
284 application.

285 (b) An application for involuntary representation for a  
286 nondomiciliary of the state shall be made pursuant to the provisions of  
287 sections 45a-667g to 45a-667o, inclusive.

288 (c) An application for involuntary representation may be filed by  
289 the parent or guardian of a minor child up to one hundred eighty days  
290 prior to the date such child attains eighteen years of age if the parent  
291 or guardian anticipates that such minor child will require a  
292 conservator upon attaining eighteen years of age. The hearing on such  
293 application shall be held not more than thirty days prior to the date  
294 such child attains eighteen years of age. The court may grant such  
295 application, provided such order shall take effect no earlier than the  
296 date the child attains eighteen years of age.

297 [(c)] (d) A person is guilty of fraudulent or malicious application or

298 false testimony when such person (1) wilfully files a fraudulent or  
299 malicious application for involuntary representation or appointment of  
300 a temporary conservator, (2) conspires with another person to file or  
301 cause to be filed such an application, or (3) wilfully testifies either in  
302 court or by report to the court falsely to the incapacity of any person in  
303 any proceeding provided for in sections 45a-644 to 45a-663, inclusive.  
304 Fraudulent or malicious application or false testimony is a class D  
305 felony.

306 Sec. 9. Subdivision (1) of subsection (a) of section 45a-649 of the  
307 general statutes is repealed and the following is substituted in lieu  
308 thereof (*Effective October 1, 2013*):

309 (a) (1) Upon an application for involuntary representation, the court  
310 shall issue a citation to the following enumerated parties to appear  
311 before it at a time and place named in the citation, which shall be  
312 served on the parties at least ten days before the hearing date, or in the  
313 case of an application made pursuant to section 17a-543 or 17a-543a, at  
314 least seven days before the hearing date. [ , which date in any event]  
315 Except as provided in subsection (c) of section 45a-648, as amended by  
316 this act, or unless continued by the court for cause shown, the hearing  
317 on an application under this section shall be held not [be] more than  
318 thirty days after the receipt of the application by the [Court of] Probate  
319 Court. [unless continued for cause shown.] Notice of the hearing shall  
320 be sent within thirty days after receipt of the application. In addition to  
321 such notice, (A) notice for a matter brought under sections 45a-667g to  
322 45a-667o, inclusive, shall be given in the manner provided in section  
323 45a-667n, and (B) notice for a matter brought under section 45a-667p,  
324 as amended by this act, shall be given in the manner provided in  
325 section 45a-667q.

326 Sec. 10. Subsection (e) of section 45a-649 of the general statutes is  
327 repealed and the following is substituted in lieu thereof (*Effective*  
328 *October 1, 2013*):

329 (e) If the respondent or conserved person notifies the court in any  
330 manner that the respondent or conserved person wants to attend the  
331 hearing on [the] an application under sections 45a-644 to 45a-663,  
332 inclusive, but is unable to do so, the court shall schedule the hearing  
333 on the application at a place that would facilitate attendance by the  
334 respondent or conserved person.

335 Sec. 11. Subsections (b) and (c) of section 45a-650 of the general  
336 statutes are repealed and the following is substituted in lieu thereof  
337 (*Effective October 1, 2013*):

338 (b) The rules of evidence in civil actions adopted by the judges of  
339 the Superior Court shall apply to all hearings pursuant to [this section]  
340 sections 45a-644 to 45a-667v, inclusive. All testimony at a hearing held  
341 pursuant to [this section] sections 45a-644 to 45a-667v, inclusive, shall  
342 be given under oath or affirmation.

343 (c) After making the findings required under subsection (a) of this  
344 section, the court shall receive evidence regarding the respondent's  
345 condition, the capacity of the respondent to care for himself or herself  
346 or to manage his or her affairs, and the ability of the respondent to  
347 meet his or her needs without the appointment of a conservator.  
348 Unless waived by the court pursuant to this subsection, evidence shall  
349 be introduced from one or more physicians licensed to practice  
350 medicine in the state who have examined the respondent within forty-  
351 five days preceding the hearing. The evidence shall contain specific  
352 information regarding the respondent's condition and the effect of the  
353 respondent's condition on the respondent's ability to care for himself  
354 or herself or to manage his or her affairs. The court may also consider  
355 such other evidence as may be available and relevant, including, but  
356 not limited to, a summary of the physical and social functioning level  
357 or ability of the respondent, and the availability of support services  
358 from the family, neighbors, community or any other appropriate  
359 source. Such evidence may include, if available, reports from the social  
360 work service of a general hospital, municipal social worker, director of

361 social service, public health nurse, public health agency, psychologist,  
 362 coordinating assessment and monitoring agencies, or such other  
 363 persons as the court considers qualified to provide such evidence. The  
 364 court may waive the requirement that medical evidence be presented if  
 365 it is shown that the evidence is impossible to obtain because of the  
 366 absence of the respondent or the respondent's refusal to be examined  
 367 by a physician or that the alleged incapacity is not medical in nature. If  
 368 such requirement is waived, the court shall make a specific finding in  
 369 any decree issued on the application stating why medical evidence  
 370 was not required. A signed report of a physician, social work service of  
 371 a general hospital, municipal social worker, director of social service,  
 372 public health nurse, public health agency, psychologist or coordinating  
 373 assessment and monitoring agency shall be admissible in evidence.  
 374 Any party may call the author of the report to testify in court. If the  
 375 author of the report fails to appear at the hearing after being served  
 376 with a subpoena in accordance with law, the report shall not be  
 377 admitted into evidence. Any hospital, psychiatric or medical record or  
 378 report filed with the court pursuant to this subsection shall be  
 379 confidential.

380 Sec. 12. Section 45a-656b of the general statutes is repealed and the  
 381 following is substituted in lieu thereof (*Effective October 1, 2013*):

382 (a) (1) For the purposes of this section: (A) "Institution for long-term  
 383 care" means a facility that has been federally certified as a skilled  
 384 nursing facility, an intermediate care facility, a residential care home,  
 385 an extended care facility, a nursing home, a rest home or a  
 386 rehabilitation hospital or facility; and (B) "person under  
 387 conservatorship" means a conserved person or a person under  
 388 voluntary representation pursuant to section 45a-646.

389 [(a)] (2) Except as provided in subsections (b), (c), (d), (e) and (f) of  
 390 this section, a conservator may not terminate a tenancy or lease of a  
 391 [conserved] person [, as defined in section 45a-644,] under  
 392 conservatorship, sell or dispose of any real property or household

393 furnishings of the [conserved] person under conservatorship, or  
394 change the [conserved person's] residence of the person under  
395 conservatorship unless a [court of probate] Probate Court finds, after a  
396 hearing, that such termination, sale, disposal or change is necessary or  
397 that the [conserved] person under conservatorship agrees to such  
398 termination, sale, disposal or change.

399 (b) If the conservator determines it is necessary to cause the  
400 [conserved] person under conservatorship to be placed in an  
401 institution for long-term care or to change the [conserved person's]  
402 residence of the person under conservatorship, the conservator shall  
403 file a report of the intended placement in an institution for long-term  
404 care or change of residence with the [court of probate] Probate Court  
405 that appointed the conservator. The court shall hold a hearing to  
406 consider the report. If, after the hearing, the conservator obtains  
407 permission of the court for the intended placement or change of  
408 residence, the conservator may make such a placement or implement  
409 such a change of residence. The hearing shall be held not less than five  
410 days after the filing of the report, excluding Saturdays, Sundays and  
411 holidays, and not less than seventy-two hours before the placement in  
412 the institution for long-term care or the change of residence, except  
413 that if the placement in an institution for long-term care results from  
414 the [conserved person's] discharge from a hospital of a person under  
415 conservatorship, the conservator may make the placement before filing  
416 the report, provided the conservator (1) files the report not later than  
417 five days after making such placement, and (2) includes in the report a  
418 statement as to the hospital discharge and related circumstances  
419 requiring the placement of the [conserved] person under  
420 conservatorship in the institution for long-term care. No such  
421 placement made before the filing of the report of the conservator shall  
422 continue unless ordered by the [Court of] Probate Court after a hearing  
423 held pursuant to this section.

424 (c) A report filed under subsection (b) of this section with respect to  
425 placement in an institution for long-term care shall set forth the basis

426 for the conservator's determination, what community resources are  
427 available and have been considered to avoid the placement, and the  
428 reasons why the [conserved person's] physical, mental and  
429 psychosocial needs of the person under conservatorship cannot be met  
430 in a less restrictive and more integrated setting. Such community  
431 resources include, but are not limited to, resources provided by the  
432 area agencies on aging, the Department of Social Services, the Office of  
433 Protection and Advocacy for Persons with Disabilities, the Department  
434 of Mental Health and Addiction Services, the Department of  
435 Developmental Services, any center for independent living, as defined  
436 in section 17b-613, any residential care home or any congregate or  
437 subsidized housing. The conservator shall give notice of the placement  
438 of the [conserved] person under conservatorship in an institution for  
439 long-term care and a copy of such report to the [conserved] person  
440 under conservatorship, the [conserved person's] attorney for the  
441 person under conservatorship and any interested parties as  
442 determined by the court. Service shall be by first-class mail. The  
443 conservator shall provide a certification to the court that service was  
444 made in the manner prescribed by this subsection.

445 (d) The [conserved] person under conservatorship may, at any time,  
446 request a hearing by the court on the person's placement in an  
447 institution for long-term care which hearing may determine the  
448 availability of a less restrictive alternative for the person's placement.  
449 On request of the [conserved] person under conservatorship made  
450 after the initial hearing held under subsection (b) of this section, the  
451 court shall hold a hearing on the placement not later than ten days,  
452 excluding Saturdays, Sundays and holidays, after receipt by the court  
453 of such request. The court shall not be required to conduct a hearing  
454 under this subsection more than three times in any twelve-month  
455 period following the hearing held under subsection (b) of this section  
456 authorizing the initial placement, except that the court shall conduct a  
457 hearing whenever information not previously available to the court is  
458 submitted with a request for a hearing.

459 (e) After the initial hearing held under subsection (b) of this section,  
460 the court may hold a hearing on a conservator's report and the  
461 placement of the [conserved] person under conservatorship in an  
462 institution for long-term care in any case even if no request for a  
463 hearing is made.

464 (f) If the court, after a hearing on the placement of the [conserved]  
465 person under conservatorship in an institution for long-term care,  
466 determines that the [conserved person's] physical, mental and  
467 psychosocial needs of the person under conservatorship can be met in  
468 a less restrictive and more integrated setting within the resources  
469 available to the [conserved] person under conservatorship, either  
470 through the [conserved person's own] estate of the person under  
471 conservatorship or through private or public assistance, the court shall  
472 order that the [conserved] person under conservatorship be placed and  
473 maintained in a less restrictive and more integrated setting.

474 (g) A [conserved] person under conservatorship may waive the  
475 right to a hearing required under this section if the [conserved  
476 person's] attorney for the person under conservatorship has consulted  
477 with the [conserved] person under conservatorship and the attorney  
478 has filed with the court a record of the waiver. Such a waiver shall be  
479 invalid if the waiver does not represent the [conserved person's own]  
480 wishes of the person under conservatorship.

481 [(h) For purposes of this section, an "institution for long-term care"  
482 means a facility that has been federally certified as a skilled nursing  
483 facility, an intermediate care facility, a residential care home, an  
484 extended care facility, a nursing home, a rest home or a rehabilitation  
485 hospital or facility.]

486 Sec. 13. Section 45a-317a of the general statutes is repealed and the  
487 following is substituted in lieu thereof (*Effective October 1, 2013*):

488 Any person interested in the estate of a deceased person and having  
489 a need to obtain financial information concerning the deceased person



490 for the limited purpose of determining whether the estate may be  
 491 settled as a small estate under section 45a-273, or having a need to  
 492 obtain financial or medical information concerning the deceased  
 493 person for the limited purpose of investigating a potential cause of  
 494 action of the estate, surviving spouse, children, heirs or other  
 495 dependents of the deceased person, or a potential claim for benefits  
 496 under a workers' compensation act, an insurance policy or other  
 497 benefits in favor of the estate, surviving spouse, children, heirs or other  
 498 dependents of the deceased person, may apply to the [court of probate]  
 499 Probate Court having jurisdiction of the estate of the deceased person  
 500 for the appointment of an estate examiner. The [court of probate]  
 501 Probate Court may grant the application and appoint an estate  
 502 examiner for such limited purpose if the court finds that such  
 503 appointment would be in the interests of the estate or in the interests of  
 504 the surviving spouse, children, heirs or other dependents of the  
 505 deceased person. If the court appoints an estate examiner under this  
 506 section, the court may require a probate bond or may waive such bond  
 507 requirement. The court shall limit the authority of the estate examiner  
 508 to disclose the information obtained by the estate examiner, as  
 509 appropriate, and may issue an appropriate order for the disclosure of  
 510 such information. Any order appointing an estate examiner under this  
 511 section, and any certificate of the appointment of a fiduciary issued by  
 512 the clerk of the court, shall indicate (1) the duration of the estate  
 513 examiner's appointment, and (2) that such estate examiner has no  
 514 authority over the assets of the deceased person.

515 Sec. 14. Section 45a-364 of the general statutes is repealed and the  
 516 following is substituted in lieu thereof (*Effective October 1, 2013*):

517 (a) Whenever a claim has been rejected, in whole or in part, as  
 518 provided in section 45a-360, the person whose claim has been rejected  
 519 may, within thirty days from and including the date of such rejection,  
 520 make application to the [Court of] Probate Court to hear and decide  
 521 such claim or, in the alternative, may apply to said court [for the  
 522 appointment of one or more disinterested persons, at least one of

523 whom shall be an attorney-at-law, admitted to practice in this state, to  
524 be a commissioner or commissioners to hear and decide] to refer the  
525 claim to a probate magistrate or attorney probate referee to hear such  
526 claim. [The Court of Probate shall not appoint as a commissioner any  
527 officer or employee of the Court of Probate or any person employed by  
528 or associated in the practice of law with the judge of said court.] The  
529 court may, in its discretion, grant the application, hear and decide such  
530 claim if the application so requests or [appoint such commissioner or  
531 commissioners to hear and decide] refer such claim to a probate  
532 magistrate or attorney probate referee. The court shall notify the  
533 applicant and the fiduciary of its action granting or denying the  
534 application within fifteen days after receipt of the application.

535 [(b) Upon application of such commissioner or commissioners or  
536 upon its own motion, the Court of Probate shall give notice of the time  
537 and place set forth for the hearing to decide such claim to such persons  
538 as the court may direct at least ten days before the hearing date.]

539 [(c)] (b) If the application to receive and decide such claim by the  
540 court or for the [appointment of a commissioner or commissioners]  
541 referral of such claim to a probate magistrate or attorney probate  
542 referee is denied, the claimant shall commence suit within one  
543 hundred twenty days from and including the date of the denial of [his]  
544 the claimant's application or be barred from asserting or recovering on  
545 such claim from the fiduciary, the estate of the decedent or any  
546 creditor or beneficiary of the estate.

547 [(d) (1) If the Court of Probate appoints more than one  
548 commissioner, it shall appoint an odd number of commissioners and a  
549 determination by a majority of such commissioners shall constitute the  
550 decision of the commissioners. (2) When any commissioner is unable  
551 to complete his duties, the Court of Probate may appoint a successor  
552 commissioner or allow the remaining commissioners to complete the  
553 duties of the commissioners. (3) The Court of Probate may remove any  
554 commissioner for cause and appoint another in his place.

555 (e) The determination of such commissioner or commissioners shall  
556 be final on the date the report of such commissioner or commissioners  
557 is filed in the Court of Probate, and the court shall thereupon enter an  
558 order approving the report unless the court finds that the  
559 commissioner or commissioners were guilty of misconduct  
560 substantially affecting the validity of the report or that the report is  
561 clearly erroneous. Upon rejection of the report, the Court of Probate  
562 may hear and determine such claim or appoint a different  
563 commissioner or commissioners to hear and determine such claim as  
564 otherwise provided in this section.

565 (f) Such commissioner or commissioners may be allowed such  
566 reasonable compensation and expenses as the Court of Probate shall  
567 determine, the cost of which may be apportioned between the creditor  
568 and the estate as the court shall direct. In the event that the Court of  
569 Probate shall receive and decide a claim, costs shall not be assessed  
570 other than those permitted by sections 45a-105 and 45a-107.]

571 (c) If the Probate Court refers the claim to a probate magistrate or  
572 attorney probate referee, the provisions of section 45a-123 shall govern  
573 the proceedings.

574 Sec. 15. Subsection (a) of section 45a-667p of the general statutes is  
575 repealed and the following is substituted in lieu thereof (*Effective from*  
576 *passage*):

577 (a) Except for an individual under voluntary representation as  
578 provided in section [45a-647] 45a-646, a conserved person, a conserved  
579 person's attorney, a conservator of the person or a conservator of the  
580 estate appointed in this state or any person who has received notice  
581 pursuant to subdivision (2) of subsection (a) of section 45a-649 may  
582 petition a [court of probate] Probate Court to transfer the  
583 conservatorship of the person or the conservatorship of the estate, or  
584 both, to another state.

585 Sec. 16. Section 46a-81a of the general statutes is repealed and the

586 following is substituted in lieu thereof (*Effective July 1, 2013*):

587 For the purposes of sections 4a-60a [, 45a-726a] and 46a-81b to 46a-  
588 81q, inclusive, "sexual orientation" means having a preference for  
589 heterosexuality, homosexuality or bisexuality, having a history of such  
590 preference or being identified with such preference, but excludes any  
591 behavior which constitutes a violation of part VI of chapter 952.

592 Sec. 17. Section 45a-353 of the general statutes is repealed and the  
593 following is substituted in lieu thereof (*Effective July 1, 2013*):

594 For the purposes of sections 45a-266, 45a-353 to 45a-384, inclusive,  
595 [45a-390] and 45a-436, as amended by this act, the following terms  
596 shall have the following meanings, unless otherwise specifically  
597 provided:

598 (a) "Fiduciary" means an ancillary or domiciliary executor,  
599 administrator, administrator c.t.a., administrator d.b.n., administrator  
600 c.t.a.d.b.n. and temporary administrator of the estate of a decedent;

601 (b) "Assets" means all property and property interests, whether real  
602 or personal, tangible or intangible, corporeal or incorporeal, and  
603 choate or inchoate, of a decedent at the time of his death or of the  
604 estate of a decedent;

605 (c) "Beneficiary" means any person entitled to legal title to any assets  
606 (1) under the statutes governing descent and distribution, (2) under the  
607 provisions of a will or codicil, (3) by virtue of a right of election, (4) in  
608 settlement of a will contest, or (5) by mutual distribution; but shall not  
609 include the recipient of assets pursuant to a widow's allowance or  
610 family allowance paid by order of the [Court of] Probate Court;

611 (d) "Claim" means all claims against a decedent (1) existing at the  
612 time of the decedent's death or (2) arising after the decedent's death,  
613 including, but not limited to, claims which are mature, unmatured,  
614 liquidated, unliquidated, contingent, founded in tort, or in the nature

615 of exoneration, specific performance or replevin;

616 (e) "Creditor" means any person having a claim;

617 (f) "Demonstrative disposition" means a testamentary disposition to  
618 be taken out of specified or identified property;

619 (g) "Distributee" means a person who receives assets under the  
620 statutes governing descent and distribution;

621 (h) "First fiduciary" means the fiduciary first appointed by the [court  
622 of probate] Probate Court to administer the estate of a decedent;

623 (i) "General disposition" means a testamentary disposition not  
624 amounting to a demonstrative, residuary or specific disposition;

625 (j) "Newspaper notice" means notice published in a newspaper  
626 having a substantial general circulation in the probate district in which  
627 an estate is in settlement;

628 (k) "Notice" means a written instrument containing the required  
629 information sent to the person to whom the notice is to be given by  
630 certified mail or registered mail and the date on which such notice  
631 shall be deemed given shall be the date of mailing; provided in the  
632 case of notice required to be given by a [court of probate] Probate  
633 Court, the term "notice" shall include such forms of notification in  
634 addition to certified or registered mail as the [Court of] Probate Court  
635 shall in its discretion direct;

636 (l) "Person" means a natural person, association, board, corporation,  
637 limited liability company, partnership or other firm or entity;

638 (m) "Specific disposition" means a testamentary disposition of a  
639 specified or identified item;

640 (n) "Testamentary disposition" means a disposition of assets by will.

641 Sec. 18. Subsection (g) of section 45a-369 of the general statutes is

642 repealed and the following is substituted in lieu thereof (*Effective July*  
643 *1, 2013*):

644 (g) (1) If at any time payment with respect to an obligation  
645 described in subsection (a) of section 45a-368, as amended by this act,  
646 is made by a beneficiary having a lower order of liability than another  
647 beneficiary or beneficiaries, or out of assets due such beneficiary  
648 having a lower order of liability, then the beneficiary having a lower  
649 order of liability shall be entitled to recover the amount so paid from  
650 any beneficiary prior in liability to him under subsection (a) of this  
651 section who remains liable under sections 45a-266, 45a-353 to 45a-384,  
652 inclusive, as amended by this act, [45a-390] and 45a-436, as amended  
653 by this act, without regard to the limitations of sections 45a-370 and  
654 45a-373. (2) If by application of subdivision (1) of subsection (g) of this  
655 section any beneficiary has paid more than his ratable obligation, as  
656 defined in section 45a-370, such beneficiary shall be entitled to  
657 contribution from any beneficiary within the same order of liability  
658 without regard to the limitations of sections 45a-370 and 45a-373.

659 Sec. 19. Subsection (f) of section 45a-107 of the general statutes is  
660 repealed and the following is substituted in lieu thereof (*Effective July*  
661 *1, 2013*):

662 (f) A fee of fifty dollars shall be payable to the court by any creditor  
663 applying to the [Court of] Probate Court pursuant to section 45a-364,  
664 as amended by this act, [or 45a-401] for consideration of a claim. If  
665 such claim is allowed by the court, the court may order the fiduciary to  
666 reimburse the amount of such fee from the estate.

667 Sec. 20. Subsection (a) of section 45a-368 of the general statutes is  
668 repealed and the following is substituted in lieu thereof (*Effective July*  
669 *1, 2013*):

670 (a) Subject to the provisions of sections 45a-369 to 45a-375, inclusive,  
671 as amended by this act, a beneficiary is liable, in an action or actions, to  
672 the extent of the fair market value on the date of distribution of any

673 assets received by him as a beneficiary from the estate of a decedent,  
 674 for the expenses of administering the estate, claims, funeral expenses  
 675 of the decedent, and all taxes for which the estate is liable, which have  
 676 not previously been recovered out of assets held by the fiduciary or  
 677 from any other source described in subsection (b) of this section. [or in  
 678 section 45a-409.] For purposes of this section, the date of distribution of  
 679 real estate specifically devised and real estate passing under the laws  
 680 of descent and distribution shall be the date of the decedent's death.

681 Sec. 21. Sections 45a-190, 45a-390 to 45a-419, inclusive, 45a-726a and  
 682 45a-727b of the general statutes are repealed (*Effective July 1, 2013*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	45a-78
Sec. 2	<i>October 1, 2013</i>	45a-176
Sec. 3	<i>October 1, 2013</i>	17a-525
Sec. 4	<i>October 1, 2013</i>	45a-186
Sec. 5	<i>October 1, 2013</i>	45a-295
Sec. 6	<i>October 1, 2013</i>	45a-436
Sec. 7	<i>October 1, 2013</i>	45a-484
Sec. 8	<i>October 1, 2013</i>	45a-648
Sec. 9	<i>October 1, 2013</i>	45a-649(a)(1)
Sec. 10	<i>October 1, 2013</i>	45a-649(e)
Sec. 11	<i>October 1, 2013</i>	45a-650(b) and (c)
Sec. 12	<i>October 1, 2013</i>	45a-656b
Sec. 13	<i>October 1, 2013</i>	45a-317a
Sec. 14	<i>October 1, 2013</i>	45a-364
Sec. 15	<i>from passage</i>	45a-667p(a)
Sec. 16	<i>July 1, 2013</i>	46a-81a
Sec. 17	<i>July 1, 2013</i>	45a-353
Sec. 18	<i>July 1, 2013</i>	45a-369(g)
Sec. 19	<i>July 1, 2013</i>	45a-107(f)
Sec. 20	<i>July 1, 2013</i>	45a-368(a)
Sec. 21	<i>July 1, 2013</i>	45a-190, 45a-390 to 45a-419 45a-726a and 45a-727b

***Statement of Purpose:***

To revise probate law and procedure and repeal obsolete provisions.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*